INFOCARD

Taxes in Peru¹

Last updated in November 2022

The objective of this infocard is to present an overview of essential elements of the tax regime in Peru.

1. The Peruvian Tax Regime: General Aspects

In recent years, the tax regime in Peru has remained relatively the same. Marginal modifications were introduced regarding the application of certain taxes, for the purpose of simplifying control by the tax authority and for facilitating compliance by taxpayers. Minor taxes were also introduced to target specific activities. The special treatment accorded to agro-industrial activities was modified, and forestry and aquaculture were included into the latter.² Taxes in Peru apply to income, production and consumption, imports, the circulation of money and wealth. Contributions to Social Health Insurance and the National Pension System are not discussed in this Infocard.

The Central Government holds the tax power. Regional governments do not have this competence and depend exclusively on state resources transferred to them by the Central Government through different channels. Regional Governments and Local Governments may create, modify, and suppress contributions and fees, or issue exemptions, within their jurisdiction, and within the limits indicated by the Law.³ Taxes can be created, modified, or repealed, or subject to an exemption, exclusively by law. Additionally, the Executive may create or modify taxes by Legislative Decree (DL) subject to a specific delegation of power by the Congress. Tariffs and fees are regulated by Supreme Decree, and new taxes or any modification to existing taxes take effect from the year following their enactment.

The authority responsible for the collection and control of taxes is the National Superintendence of Tax Administration (SUNAT, Superintendencia Nacional de Administración Tributaria), which is part of the Ministry of Economy and Finance (MEF, Ministerio de Economía y Finanzas). Every taxpayer and/or person responsible for taxes administered by SUNAT, in accordance with current laws, must be registered on the Single Taxpayer Registry (RUC, Registro Único del Contribuyente).

The Tax Court is the ultimate administrative authority at national level in tax and customs matters. It is responsible for resolving disputes that arise between taxpayers and Tax Administrations. Once all administrative options have been exhausted, the Judiciary can be called upon to resolve tax matters.

¹ The information contained in this infocard provides a general overview. For more detailed information, business contacts, events and trade promotion actions, please contact the Commercial Offices of the Member States and the bilateral Chambers in Lima.

² More detailed information can be found in periodic reports produced by law firms that monitor tax rules. For example, among others: Deloitte's weekly Legal & Tax Advice Newsletter, available at: https://www2.deloitte.com/pe/es/pages/tax/articles/2021-13diciembre-boletin-impuestos-corporativos.html Also, Garrigues Tax Commentary January 2021, available at:

https://www.garrigues.com/sites/default/files/documents/principales medidas tributarias adoptadas en peru de cara al 2021.pdf

³ Article 74 of the Political Constitution of Peru.

The tax regime uses the **Tax Unit (UIT, Unidad Impositiva Tributaria)** to determine different aspects related to taxation. This is adjusted annually, and for the year 2022, the ITU was set at 4,600 soles (which, at the exchange rate valid at the end of October 2022, is equivalent to EURO 1,150.00).

Peru is currently implementing measures to promote greater transparency and exchange of information on tax issues. Since 2013, the Income Tax Law incorporated an **International Tax Transparency Regime** in order to combat tax avoidance in the international arena (Legislative Decree 1120). This regime applies to taxpayers who reside in the country and obtain income from controlled foreign corporations (CFCs). The law sets forth three conditions for an entity to qualify as a CFC:

- i. To have a separate legal personality from that of its constituent persons (partners, shareholders, etc.);
- ii. To be incorporated/established or resident/domiciled in a non-cooperative or low or zero taxation country or territory, which is not subject to income tax, or if it is, that the tax is equal to or less than 75% of the income tax that would be due in Peru on income of the same nature; or,
- iii. To be owned by taxpayers domiciled in the country (provided that they have a direct or indirect shareholding of more than 50% of the capital, results or voting rights of the aforementioned entity).

Peru has also joined the Global Forum on Transparency and Exchange of Information for Tax Purposes (Global Forum). In 2018, it became a party to the Multilateral Convention on Mutual Administrative Assistance in Tax Matters of the OECD, a convention that has been ratified by the Congress of the Republic, which constitutes a central instrument for the implementation of the Standard for the Automatic Exchange of Financial Account Information in Tax Matters. The regulation that authorises SUNAT to access bank account information of individuals and companies that have accounts abroad has also been approved, so that details can be shared with other countries.

Measures have also been taken against tax evasion and avoidance. Rule XVI of the Tax Code, or **Anti-Avoidance Rule**, had been suspended since 2012 due to lack of regulation. Eventually, however, the rule came into effect with the approval of its regulations in 2019. The rule grants SUNAT powers to audit all acts that fall under the assumption of avoidance that have occurred since June 19, 2012. It should be noted that the power granted to SUNAT covers the requirement of tax debt or reduction of the amount of balances or credits in favour, tax losses, tax credits or elimination of the tax advantage. For its part, the Regulation (approved by Supreme Decree N° 145-2019-EF), provides an enumerative (but not exhaustive) list of situations in which the tax agent may assess the application of the general anti-avoidance rule⁴. These include acts where profitability is not in line with market value or lacks economic rationality; acts that are not related to ordinary operations for achieving desired legal, economic or financial results; use of non-business figures for typical activities; transactions at zero or low cost; and many more. In accordance with the Regulation, SUNAT publishes a Catalogue of High Tax Risk Schemes which includes situations where there are sufficient elements to apply the general anti-avoidance rule, as well as cases in which tax debtors, third parties and tax advisors can prompt application of the general anti-avoidance rule.⁵

files/Esquemas%20Alto%20Riesgo%20v2%202022_2.pdf

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⁴ See: https://amcham.org.pe/articulo/parametros-para-la-aplicacion-de-la-norma-anti-elusiva/

⁵ Ibidem. See https://orientacion.sunat.gob.pe/sites/default/files/inline-

2. Income Tax⁶

2.1 Income Tax Legal Persons

This is a direct tax levied on income that comes from a worldwide source. This includes income generated in Peru and income from a foreign source, obtained by companies resident in Peru, and income from Peruvian sources received by legal persons that are resident abroad. For tax purposes, legal entities that are incorporated in Peru, including foreign entities of any nature incorporated in Peru, and that provide services and construction works for more than 183 days in 12 months, are considered residents.

In Peru, as of January 2017 there are four tax regimes that apply to business activity. These include a General Regime and three additional regimes that apply to micro and small enterprises:

- I. General Regime (RG, Régimen General)
- II. New simplified single regime (NRUS, Nuevo Régimen Único Simplificado);
- III. Special Income Tax Regime (RER, Régimen Especial de Impuesto a la Renta); and,
- IV. MYPE Tax Regime (RMT, Régimen MYPE Tributario).

General Regime (RG)

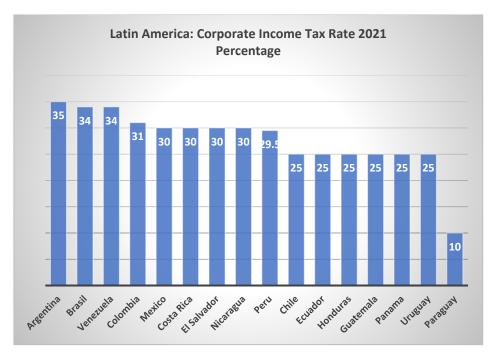
The RG is applied to taxpayers who exceed net income by 1700 UIT, which is approximately EURO 1.96 million at the current exchange rate. The tax rate is 29.5 percent. The net taxable income is the accounting profit for the year, adjusted for additions and deductions in accordance with tax regulations. The tax is levied on residents' worldwide income. Payment is made monthly and is calculated according to the taxpayer's situation of the previous year. Accordingly, payments constitute a credit against the annual tax.

It is important to note that the legislation caps some expenses when calculating taxable income. These include, but are not limited to, representation expenses, staff recreation expenses, interest, and payments to Board members. Expenses resulting from operations with tax havens are not deductible, except for some specific expenses determined by law.

Losses that are incurred in one fiscal year may be carried forward to the following year for compensation. Two systems allow this: through **system A**, the total net loss from Peruvian sources can be offset year after year to the net income of third category obtained in the five immediate following years, until its amount is exhausted. In **system B**, the total net loss of the third category income of Peruvian sources recorded in a taxable year can be offset by imputing it year by year, until its amount is exhausted at fifty percent of the income obtained in the immediate subsequent years. In this system there is no deadline to compensate it and this loss is added to the net compensable losses of compensable periods, which is not the case in System A. Total net losses from foreign sources may not be offset against Peruvian net income.

The following figure presents the income tax rates of legal entities in Latin American countries. Comparatively, Peru is in the mid-range.

⁶ The Single Harmonized Text (TUO) of the Income Tax can be found at: https://www.sunat.gob.pe/legislacion/renta/tuo.html



Fuente: Tax Foundation.⁷

Figure 1. Income tax on legal entities in Latin America

Regarding corporate income tax, some specific regimes exist. Activities in the Amazon are taxed at a rate of 5 and 10 percent, and may even be tax exempt depending on the type of industry or activity. Agribusiness, forestry, aquaculture, and universities are taxed a rate of 15 percent. Investment in high Andean zones and Special Development Zones (ZED) are exempt from income tax.

One aspect that needs to be highlighted with respect to corporate income tax is that national legislation unilaterally provides tax credit for income taxes paid abroad on foreign-source income taxed in Peru, providing that they do not exceed the amount resulting from applying the average taxpayer's rate to income obtained abroad, nor the tax paid abroad. The amount that is not used in the taxable year, cannot be offset in other years and does not give the right to a refund.

Since the 2019 fiscal year, to mitigate double taxation, taxpayers in Peru can use **the corporate income tax** paid by non-domiciled legal entities that distribute dividends to a Peruvian entity as an **indirect credit**. According to the provisions of Legislative Decree 1424 of 2018, under certain conditions, the Income Tax paid by a non-domiciled company (second-tier company that distributes dividends to the Peruvian taxpayer (first-tier company) can be used as a credit, in the proportional part corresponding to the dividends distributed to the Peruvian taxpayer. The rule also provides that the Peruvian taxpayer may also deduct the amount of Income Tax paid by a second-tier company.

To deduct the indirect credit, Income Tax Law Regulations establish, as a formal requirement, that taxpayers inform SUNAT on:

- I. shareholding in foreign companies; and,
- II. profits obtained by first and second tier foreign companies and the dividends distributed by them (Article 58-A).

⁷ See: https://taxfoundation.org/publications/corporate-tax-rates-around-the-world/#Rates

Special Income Tax Regimes

Table No.1 summarizes the existing income tax regimes on **business operations**.

Table 1. Special Income tax Regimes

Concept	New Simplified Single Scheme (NRUS) ⁸	Special Income Tax Regime (RER)	MYPE Tax Regime (RMT))
Applicable to	Natural person	Natural and legal person	Natural and legal person
Limit income and purchases	Up to S / 96,000 per year or 8,000 per month	Up to S / 525,000 per year.	Revenue not exceeding 1,700 UIT.
Workers	No limit	Maximum 10 per shift	No limit
Maximum value of fixed assets excluding properties and vehicles	S/ 70,000	S/ 126,000	No limit
Tax rate	S/ 20% or 50% per month	1.5% of monthly income	Whichever is greater: Monthly income < 300 UIT = 1%, > 300 UIT = 1.5%, or annual declaration with a rate of 10% on earnings up to 15 UIT, and 29.5% on the highest amount.

Source: SUNAT

2.2 Personal Income Tax

Natural persons domiciled in the country pay income tax on total income according to categories shown in the table below. To note, the third category below pertains to income of legal persons.

Table 2. Categories of Income for Personal Income Tax: Natural Persons

First	Income produced by the lease, sublease, and transfer of goods. Tax Rate: 6.25%
Second	Capital income not included in the first category. It corresponds to the sale of
	shares or securities, interest on capital placement, royalties, patents, annuities,
	key rights and others. Tax rate 6.25%.
Fourth	Income from independent work. It is reduced by 20% when determining the
	total taxable income on which the tax rate is applied.
Fifth	Income from dependent work and other income expressly indicated by Law.
Income from	These are not categorized, whatever their nature they are added to taxable
Foreign Sources	income. Net income from foreign sources derived from the distribution of
	transferable securities must be added to second-category net income.

Note: The third category corresponds to Income Tax for legal entities

Tax is applied with cumulative progressive rates.

⁸ It has no fundraising objective, since its objective is to promote formalization.

When applying rates, 7 UIT are deducted from the taxable income and it is possible to deduct 3 UIT from some expenses, set forth by law, which are duly supported and banked. Taxes paid abroad are deducted. Tax rates per income bracket are presented in the following table.

Table 3. Personal Income Tax Rates

UIT Taxable Income Bracket	Tax Rate %
Up to 5	8%
5-20	14%
20-35	17%
35-45	20%
+ 45	30%

Source: Income Tax Law

Non-domiciled natural persons have the obligation to pay taxes only on income from Peruvian sources.¹⁰ In the case of fifth-category income, the employer withholds a percentage of the salary depending on the expected income during the year based on the tax rates per bracket. In the case of fourth-category income, the person executing the payment is obliged to withhold 8 percent.

In the case of non-domiciled persons, if withholdings are not made by the domiciled participant in the operation, the non-domiciled person has the obligation to make the payment directly to SUNAT. The following rates apply to specific transactions:

- Sale of a property in Peru: the buyer is obliged to withhold 5% of the payment.
- Rental of properties located in Peru: the tenant is obliged to make a withholding of 5% of the rental amount.
- Sale or transfer of transferable securities: withholding of 5%.
- **Income of 4th category:** provision of services independently, subject to a withholding of 30% on the net income reduced by 20%.
- **Income of 5th category:** Employment with payroll, the employer must withhold 30% of the payment.

3. Non-residents Natural Persons Income Tax

Persons or entities, that pay income from Peruvian sources of any nature to non-residents, must withhold and pay the corresponding tax to SUNAT. The applicable rates are as follows:

- Interest from external loans: 4.99 %
- Rents derived from the rental of ships and aircraft: 10 %
- Royalties: 30 %
- Dividends and other forms of profit distribution: 5 %
- Technical Assistance: 15 %
- Live shows with primarily non-resident performers: 15 %
- Income from the disposal of securities carried out within the country: 5 %
- Other income: 30 %

⁹ For more detail, refer to SUNAT (2020) Income for Natural Persons: Instruction Booklet. Available in: https://renta.sunat.gob.pe/sites/default/files/inline-files/Cartilla%20Instrucciones%20Personas 2.pdf

¹⁰ Non-domiciled persons are those who, being Peruvians, acquire residence outside the country, and foreigners without permanent domicile in Peru or who have domicile and are absent for more than 183 days for any period comprising 12 months.

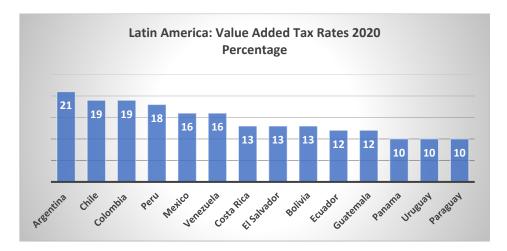
In accordance with current legislation, it is presumed, without admitting proof to the contrary, that non-resident taxpayers who carry out various activities obtain net income from Peruvian sources. The income from Peruvian sources is calculated by applying the percentages indicated below, and the income tax rate is applied to the resulting amount:

- Insurance activities: 7 % of premiums
- Rental of ships: 80 % of gross income
- Aircraft rental: 60 % of gross revenue
- Transportation between Peru and abroad: air transport 1 % of gross revenues, and 2 % for chartering or maritime transport
- Telecommunications Services: 5 % of gross revenues.
- International news agencies: 10 % of gross remuneration earned
- Distribution of cinematographic and similar films: 20 % of gross receipts
- Companies that supply containers for transport and do not provide the transport service:
 15 % of gross revenues
- Overstay of containers for transportation: 80 % of the gross income obtained from the excess stay
- Transfer of television broadcasting rights: 20 % of gross revenues
- Sale of highly migratory hydro biological resources extracted within and outside Peru's maritime domain to companies domiciled in Peru: 9 % of gross revenues

Foreign nationals are considered domiciled after having stayed in Peru for a period greater than 183 days within 12 months, and, consequently, are subject to taxation based on their worldwide income.

4. Value Added Tax¹¹

Two taxes are levied on value added in Peru. The **General Sales Tax** (IGV, *Impuesto General a las Ventas*) with 16 percent, and the **Municipal Promotion Tax** (IPM, *Impuesto de Promoción Municipal*) with 2 percent. These taxes are levied on the sale of movable property in the country (new and used), the provision or use of services in the country, construction contracts, the first sale of real estate by the builder, and the importation of goods. Figure 2 presents value-added tax rates in Latin America.



Source: Global VAT Compliance¹²

¹¹ The single ordered text (TUO) of the General Sales Tax and Selective Consumption Tax Law, Law 31556, can be found at: https://www.sunat.gob.pe/legislacion/igv/ley/

 $^{^{12}\,\}text{Ver:}\,\underline{\text{https://www.globalvatcompliance.com/globalvatnews/world-countries-vat-rates-2020/}$

Figure 2. VAT in Latin America

Value added taxes are levied on the value of the transaction. In the case of imports, they are applied on the CIF value (cost, insurance and freight) of customs plus tariffs and any other tax that affects the product. The tax paid constitutes a tax credit that must be used month by month, through deduction from the gross tax to determine the applicable tax. The taxpayer is required to file monthly IGV and IPM returns. Some goods, such as agricultural products, and a variety of services, are exempt from IGV and IMP.

In the case of investments in a project where two or more years are needed to enter into production, the **Special Regime for Early Recovery of the General Sales Tax** allows the refund of the IGV transferred or paid in operations of import and / or local acquisition of intermediate goods, capital goods, construction services and contracts that are used directly in the execution of the project.

5. Excise Tax (ISC, Impuesto Selectivo al Consumo)

Some goods, mainly fuel¹³, vehicles, alcoholic and non-alcoholic beverages, and cigarettes and tobacco, and some services such as casino games and slots, are subject to the ISC. There are four categories of application of this tax, applying to different products:

- products subject to the Value System;
- products subject to the Specific System (fixed amount);
- products subject to the Retail Price System; and
- products subject alternatively to the Specific System (fixed amount), to the Value or to the Value according to the retail price.¹⁴

The tax is generally applied equally to domestic and imported products, and in the case of importation, payment is made at customs.¹⁵

6. Financial Transaction Tax (ITF, Impuesto a la Transacciones Financieras)

This tax was established in 2004 by Law 29194¹⁶. The ITF applies at a rate of 0.005 percent on all credit and debit operations made by financial entities, whether in national or foreign currency. All legal and natural persons having accounts in the financial system must pay this tax. The financial entities are responsible for the withholding and payment of the tax to SUNAT.

There are transactions exempted from this tax, *inter alia*, the transfers between accounts of the same holder and payments of remuneration and compensation for time of service (CTS) made in bank accounts.¹⁷ In the case of legal persons, the amount of ITF paid is considered as an expense for the purpose of determining the income tax. In the case of individuals, the amount paid during the year serves as a deduction from a person's earned income. The deduction is limited to an amount equivalent to the fourth category net income.

¹³ The application has been temporarily suspended.

¹⁴ Appendix IV of the IGV Act indicates the products and services covered by each system.

 $^{^{\}rm 15}$ In the case of Pisco, the tax differs from that of other alcoholic beverages.

¹⁶ Reglamentada mediante Decreto Supremo No 047-2004-EF, y modificaciones.

¹⁷ Ver Anexo al Decreto Supremo 150-2007-EF.

7. Temporary Net Asset Tax (ITAN, Impuesto Temporal a los Activos Netos)

This tax was established in 2004 by Law 28424.¹⁸ The ITAN is a wealth tax levied on net assets at a rate of 0.4 percent applicable to the part of assets above 1 million soles. Legal entities that are liable for the income tax, with net assets of that amount or higher, must pay the ITAN.

The ITAN is applied to the value of the net assets recorded in the balance sheet closed as of December 31 of the previous taxable year. The law and its Regulations establish the method of calculating the value of assets, including permitted deductions. The Law empowers the taxpayer to use the amount paid as a credit against Payments on Account and Regularization of Income Tax, as well as to request the return of unused balances.

8. Tax on Remote Sports Gaming and Betting

This tax was established in August 2022 by Law 31557 and levies a new tax on remote sports games and betting. This tax affects legal persons incorporated in Peru, and branches of legal entities incorporated abroad, that carry out these activities through technological platforms. This is a monthly tax levied at 12 percent on the tax base constituted by the monthly net income, less the maintenance expenses of the technological platform. Monthly net income is calculated as the difference between the gross income received in a month and the total amount of returns and prizes that are delivered in the same period to the users. In turn, for the purpose of this tax, maintenance expenses are considered to be equivalent to two percent of the monthly net income. For taxpayers domiciled in the country, this tax constitutes a deductible expense for the purposes of the Income Tax.

9. Property Tax

This tax is levied on the value of the taxpayer's property according to the corresponding district or locality. It is determined by the Local Government and its ranges from 0.2 to 1 percent of the value of the property..

10. Alcabala

The *alcabala* taxes the transfer of urban or rustic real estate, whether by sale or free of charge. The applicable rate is 3percent on the transfer value of the asset, or its self-assessment value, whichever is greater. ¹⁹ The taxable amount is reduced by 10 UIT.

11. Transfer Pricing

Transactions between related parties, that is, transactions carried out with subjects resident in "non-cooperative" countries or territories or those with low or no taxation; or transactions carried out with subjects whose income, remuneration or gains from such transactions are subject to a "preferential tax regime", must be subject to Transfer Pricing rules. The tax authority adjusts any undervaluation or overvaluation with respect to the market value that is established based on the Transfer Pricing rules.

¹⁸ Regulated by Supreme Decree No. 025-2005-EF, and amendments.

 $^{^{\}rm 19}$ The first 10 UIT of this value are exempt from this tax.

These operations are subject to various formal obligations, such as the submission of informative affidavits called Local Report²⁰, Master Report²¹ and Country by Country Report.²² To be able to deduct as an expense the services provided between related parties for purposes of determining the taxable income, it is necessary to comply with the "benefit test", that is, to prove that the service has generated an economic benefit to the taxpayer and provide the information and/or supporting documentation requested by the tax authority.

12. International Agreements

Portugal is the only country in the European Union with which Peru has signed a Double Taxation Agreement. Additionally, Peru has agreements in force with Brazil, Canada, Chile, South Korea, Japan, Mexico, and Switzerland. These agreements follow the OECD model. It is also a party to the plurilateral agreement within the framework of the Andean Community of Nations (CAN), Decision 578, based on the United Nations model. According to decision 578, regardless of the nationality or domicile of the persons, income of any nature obtained by them shall only be taxable in the Member Country in which the income is generated. In other countries, income will be considered as exempt for purposes of determining the income tax.

Peru is a party to the OECD Multilateral Convention on Mutual Administrative Assistance in Tax Matters. This is the main global instrument to increase transparency and fight against cross-border tax evasion, since it allows the implementation of the automatic exchange of information contained in country-by-country reports, on the activities of multinational companies, under the BEPS Plan (Base Erosion and Profit Shifting) of the OECD / G20, as well as financial account information.²³

²⁰ Applicable to taxpayers whose income accrued in the taxable year exceeds 2,300 UIT.

²¹ <u>See: https://busquedas.elperuano.pe/normaslegales/aprueban-reglamento-que-establece-la-informacion-financiera-decreto-supremo-n-256-2018-ef-1711155-2/</u>

²² Applicable to taxpayers that are part of a multinational economic group.

²³ See: https://busquedas.elperuano.pe/normaslegales/aprueban-reglamento-que-establece-la-informacion-financiera-decreto-supremo-n-256-2018-ef-1711155-2/

Links of Interest

Superintendencia Nacional de Administración Tributaria (SUNAT)

http://www,sunat.gob.pe/

Ministerio de Economía y Finanzas (MEF)

https://www.mef.gob.pe/

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